

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Reinhold BUCK et al.)	Group Art Unit: 1797
)	
Application No.: 10/539,409)	Examiner: Dirk R. Bass
)	
Filed: June 17, 2005)	Confirmation No.: 4997
)	
For: PERM SELECTIVE ASYMMETRIC)	
HOLLOW FIBRE MEMBRANE)	
FOR THE SEPARATION OF)	
TOXIC MEDIATORS FROM)	
BLOOD)	<u>VIA EFS-WEB</u>

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(c)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(c), Applicants bring to the attention of the Office the documents on the attached listing. This Information Disclosure Statement is being filed after the events recited in Section 1.97(b) but, to the undersigned's knowledge, before the mailing date of either a Final action, Quayle action, or a Notice of Allowance. Under the provisions of 37 C.F.R. § 1.97(c), this Information Disclosure Statement is accompanied by a fee of \$180.00 as specified by Section 1.17(p).

Copies of the listed foreign document and non-patent literature documents are attached. Copies of the U.S. patents, and Office Actions issued from a co-pending application are not enclosed as they are available on the Image File Wrapper on PAIR. See M.P.E.P. § 609.04. The United States Court of Appeals for the Federal Circuit held

in *Dayco Products, Inc. v. Total Containment, Inc.*, 329 F.3d 1358, 66 U.S.P.Q.2d 1801 (Fed. Cir. 2003) that an "adverse decision" by another examiner may meet the materiality standard under the amended Rule 56, and thus, Applicant should disclose prior rejections of "substantially similar claim[s]" to the Office. Accordingly, although Applicants are not representing that the Office Actions in the co-pending application are material to the present application and are not admitting that any of the other claims are substantially similar, out of an abundance of caution, Applicants have listed substantive office actions from a co-pending application on the attached form PTO-SB-08.

The following applies to the non-English documents:

Document No. 11 in the attached SB/08 form, DIN EN 1283, is a non-English language document, submitted as an attachment to the Written Submission in preparation for oral proceedings dated 04-May-2010 during prosecution of European Patent Application No. 03 781 225.2-2113 (which is a member of the same patent family as U.S. Application No. 10/539,409. The protocol for the determination of sieving coefficients described in section 5.4.2. of DIN EN1283 and the setup shown in Figure 6 are the European counterpart of the protocol in Section 5.6.2 of International Standard ISO 8637 for the determination of sieving coefficients and the setup in Figure 5. International Standard ISO 8637 is cited as document No. 17 in the attached SB/08 form, and was also submitted as an attachment to the Written Submission in preparation for oral proceedings dated 04-May-2010.

Documents from prosecution at European Patent Office

The documents corresponding to items Nos. 7-24, on the attached PTO Form SB/08, are from the prosecution (including oral proceedings) of European Patent

Application No. 03 781 225.2-2113, which is a member of the same patent family as the present U.S. application.

Applicants respectfully request that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claims in the application and Applicants determine that the cited document does not constitute "prior art" under United States law, Applicants reserve the right to present to the office the relevant facts and law regarding the appropriate status of such documents.

Applicants further reserve the right to take appropriate action to establish the patentability of the disclosed invention over the listed document, should the document be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please charge the fee to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: August 20, 2010

By: Kimberly D. Smith
Kimberly D. Smith
Reg. No. 63,219